

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JOSHUA PHILLIPS,
510 E. 84th St., #4C
New York, NY 10028

Plaintiff,

V.

**U.S. DEPARTMENT OF HOMELAND
SECURITY,**
245 Murray Lane, SW
Mail Stop 0485
Washington, D.C. 20528-0485

Defendant.

Case No. 1:19-cv-01226

COMPLAINT

1. Plaintiff JOSHUA PHILLIPS files this Freedom of Information Act suit to force Defendant U.S. DEPARTMENT OF HOMELAND SECURITY to produce various records related to Family Separation.

PARTIES

2. Plaintiff JOSHUA PHILLIPS is a journalist and made the FOIA requests at issue in this case.

3. Defendant U.S. DEPARTMENT OF HOMELAND SECURITY (“DHS”) is a federal agency subject to the Freedom of Information Act, 5 U.S.C. § 552.

JURISDICTION AND VENUE

4. This case is brought under 5 U.S.C. § 552(a)(6)(c)(i) and presents a federal question conferring jurisdiction on this Court.

5. Venue is proper under 5 U.S.C. § 552(a)(4)(B).

DEFENDANT'S FOIA VIOLATIONS

6. On February 25, 2019, Plaintiff requested from DHS, among other things: all reports, draft reports, spreadsheets, notes, emails, correspondence, draft emails, draft correspondence, written policies, orders, decisions, memoranda, records of meetings, contemporaneous notes taken during such meetings, records of presentations, contemporaneous notes taken during such presentations, and all records of investigations from June 28, 2018 to the present that mention or refer to Family Separation in the Summary, and/or any other reports that discuss family separation. A true and correct copy of the full request is attached as Exhibit A.

7. On February 25, 2019, Plaintiff sent a second request to DHS for the same materials but for the time period of January 1, 2017 to December 31, 2017. A true and correct copy of the request is attached as Exhibit B.

8. As of the date of filing, DHS has not responded to the requests or produced any records.

COUNT I – VIOLATION OF FOIA - FIRST FEBRUARY 25 REQUEST

9. The above paragraphs are incorporated herein.
10. Defendant is an agency subject to FOIA.
11. Plaintiff made a FOIA request to Defendant for agency records of Defendant.
12. One or more of the requested record are not exempt from disclosure.
13. Defendant has failed to produce the requested records.

COUNT II - FAILURE TO PERFORM AN ADEQUATE SEARCH - FIRST FEBRUARY 25 REQUEST

14. The above paragraphs are incorporated herein.
15. Defendant is an agency subject to FOIA.

16. Defendant bears the burden of proving beyond material doubt that it performed adequate searches for responsive records.

17. Defendant has failed to come forward with sufficient evidence to carry this burden.

18. Defendant has violated FOIA by failing to adequately search for responsive records.

COUNT III - VIOLATION OF FOIA - SECOND FEBRUARY 25 REQUEST

19. The above paragraphs are incorporated herein.

20. Defendant is an agency subject to FOIA.

21. Plaintiff made a FOIA request to Defendant for agency records of Defendant.

22. One or more of the requested record are not exempt from disclosure.

23. Defendant has failed to produce the requested records.

**COUNT IV - FAILURE TO PERFORM AN ADEQUATE SEARCH -
SECOND FEBRUARY 25 REQUEST**

24. The above paragraphs are incorporated herein.

25. Defendant is an agency subject to FOIA.

26. Defendant bears the burden of proving beyond material doubt that it performed adequate searches for responsive records.

27. Defendant has failed to come forward with sufficient evidence to carry this burden.

28. Defendant has violated FOIA by failing to adequately search for responsive records.

WHEREFORE, Plaintiff asks the Court to:

- i. Order Defendant to conduct a reasonable search for records and to produce all non-exempt requested records within 90 days of service of this Complaint;
- ii. Award Plaintiff attorney fees and costs; and
- iii. Enter any other relief the Court deems appropriate.

DATED: April 26, 2019

Respectfully Submitted,

/s/ Joshua Hart Burday

Attorneys for Plaintiffs

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